

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:       Talcott III Grassmere LP                                 )  
              Map 133-00-0, Parcel 128.00                         ) Davidson County  
              Commercial Property                                 )  
              Tax Years 2005 & 2006                                )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$3,486,500	\$11,613,300	\$15,099,800	\$6,039,920

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 30, 2007 in Nashville, Tennessee. In attendance at the hearing were registered agent Betty A. Sellers and Robert D. Waites for the appellant, and Davidson County Property Assessor's representative Dennis Donovan, MAI.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a 13.34 acre tract improved with a business center constructed in 1985. Subject property is located at 624 Grassmere Parkway in Nashville, Tennessee.

The taxpayer contended that subject property should be valued at approximately \$10,000,000. In support of this position, Ms. Sellers argued that the current appraisal of subject property does not achieve equalization. Ms. Sellers maintained that it is not equitable to appraise subject property at \$79.54 per square foot when comparable properties located at 601 and 618 Grassmere Parkway (Map 132-00-0, Parcels 4.00 & 2.00) have been appraised at \$48.05 and \$39.10 per square foot respectively.

The assessor moved for a directed verdict. Mr. Donovan essentially argued that the taxpayer introduced no evidence concerning subject property's market value which constitutes the relevant issue. Mr. Donovan also noted that subject property contains approximately 90% office and has been appraised as such. The two parcels cited by Ms. Sellers, in contrast, have been appraised as warehouse.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the assessor's motion for a directed verdict should be granted.



Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and equalized by application of the appropriate appraisal ratio. . ." *Id.* at 1.

The Assessment Appeals Commission has elaborated upon the concept of equalization in numerous rulings. Underlying these decisions is the realization that the *market* value of a property under review cannot reliably be inferred from the appraised values of other properties. See, e.g., *Appeal of Stanley Keebler* (Washington County, Tax Year 2000, decided October 22, 2001); *Franklin D. & Mildred Herndon* (Montgomery County, Tax Years 1989 and 1990); *Earl and Edith Lafollette* (Sevier County, Tax Years 1989 and 1990, decided June 26, 1991). See also *Jerry L. & Margaret D. Jonakin* (Shelby County, Tax Years 1993 and 1994, Final Decision and Order, December 13, 1994), where the Assessment Appeals Commission declared that:

...[I]t is not our task to adjust one tax valuation to match or correspond with another. We may certainly consider the overall level of assessments in the jurisdiction for purposes of equalization relief...but the issue before us is the **market value** of the subject property...[Emphasis added.]

*Id.* at p. 2.

Based upon the foregoing, the administrative judge finds that he has no choice except to grant the assessor's motion for a directed verdict. The granting of the motion does not mean, however, that the taxpayer is precluded from seeking a reduction in value based upon evidence of subject property's market value. As noted in the Order below, the taxpayer has the right to appeal to the Assessment Appeals Commission or seek reconsideration, if appropriate.

#### ORDER

It is therefore ORDERED that the assessor's motion for a directed verdict is hereby granted and the following value and assessment remain in effect for tax years 2005 and 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$3,486,500	\$11,613,300	\$15,099,800	\$6,039,920



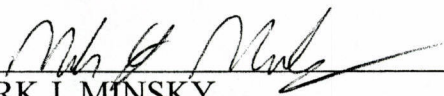
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of February, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Betty A. Sellers  
Jo Ann North, Assessor of Property